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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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09/744,221

01/22/2001

Thomas Theimer

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11/02/2004

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EXAMINER

TON, DANG T

ART UNIT

PAPER NUMBER

2666

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/744,221

Applicant(s)

THEIMER, THOMAS

Examiner

DANG T TON

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10 is/are rejected.
- 7) ☒ Claim(s) 8 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by McHale et al. (6,014,431).

For claims 1-6 and 10, McHale et al. disclose a communication server apparatus having four wire switching interface comprising :

implementing for the connection setup between one of the plurality of terminal devices and one of the modems (see column 2 lines 18-28), including :

 sending a search request from the corresponding terminal device to all modems that are connected to the local network (see request for service indication in figure 10A) ,

 returning a reply to the corresponding terminal device from the modems that have free resources available (see box 412 in figure 9);

 selecting one of the modem that sent a reply with the terminal device (see modem selection and control 86 in figure 10A) ;

 establishing connection setup proceeding from the corresponding terminal device to the selected modem by exchanging control information (see column 2 lines 18-28);

 characterized in that the external modems are ADSL modems (see column 2 line 50) ;

characterized in that the local network is an Ethernet network (see HDSL column 2 line 52);

characterized in that information for the connection setup and for setting the external modems are exchanged between the terminal devices and the external modems via an integrated control channel (see column 2 lines 18-28);

characterized in that the search request containing further particulars about the required bandwidth and/or the required protocol, and only those modems that can meet all requirements according to the further particulars reply to the search request of a terminal device (see modem selection and control and request for service indication in figure 10A);

characterized in that settings of the modem are implemented via an integrated control channel proceeding from the terminal device (see controller 80 in figure 10A) ;
and

characterized in that release information are exchanged between the terminal device and the modem for the connection clear down and the resources of the connection are released (see box 336 in figure 8).

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over McHale et al. in view of IBM Corp (Method for Accessing the Internet Using Multiple telephone Lines (XP-ooo772059).

For claim 7, McHale et al. disclose all the subject matter of the claimed invention with the exception of outputting start/stop command from respective ones of the terminal device in a communications network. IBM corp. from the same or similar fields of endeavor teaches a provision of end connection and connection failed message commands (see boxes End connection and Connection Failed message in figure 1) . Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use end connection and connection failed message commands as taught by IBM corp. in the communications network of McHale et al. outputting start/stop command from respective ones of the terminal device in a communications network can be implemented/modified into network of McHale et al. by outputting start/stop command from respective ones of the terminal device in a communications network from the controller (80 in figure 10A). The motivation for outputting start/stop command from respective ones of the terminal device in a communications network as taught by IBM corp. in the communications network of McHale et al. being that it prevent overflow since it detect and send commands to the terminal devices to start or stop transmission.

3. Claims 8-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

McHale (6,169,788 and 6,160,843) is cited to show system which is considered pertinent to the claimed invention.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANG T TON whose telephone number is 571-272-3171. The examiner can normally be reached on MON-WED, 5:30 AM-6:00 PM and Thur 5:30-9:30 A.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RAO SEEMA can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D. Ton



DANG TON
PRIMARY EXAMINER